

98-84370-29

Frelinghuysen, Theodore

Speech of
Mr. Frelinghuysen on...
Washington, D.C.

1834

98-84370-29

MASTER NEGATIVE #

COLUMBIA UNIVERSITY LIBRARIES
PRESERVATION DIVISION

BIBLIOGRAPHIC MICROFORM TARGET

ORIGINAL MATERIAL AS FILMED - EXISTING BIBLIOGRAPHIC RECORD

SPECIAL COLLECTIONS	
SELIGMAN	
1834A	
F88	Frelinghuysen, Theodore, 1787-1862. Speech of Mr. Frelinghuysen, on the removal of the deposits; delivered in the Senate of the United States, January, 1834. Washington, Printed by Gales and Seaton, 1834. 16 p. 26cm.
Another copy in Special Collections (Seligman) 1834. (26cm)	
1. Bank of the United States, 1816-1836.	
NNC	

RESTRICTIONS ON USE: Reproductions may not be made without permission from Columbia University Libraries.

TECHNICAL MICROFORM DATA

FILM SIZE: 35mmREDUCTION RATIO: 9:1IMAGE PLACEMENT: IA IIA IB IIBDATE FILMED: 3/27/98INITIALS: F.C.TRACKING # : 32209

FILMED BY PRESERVATION RESOURCES, BETHLEHEM, PA.

BIBLIOGRAPHIC IRREGULARITIES

MAIN ENTRY: Frelinghuysen, Theodore

Speech of Mr. Frelinghuysen on the removal of the
deposits

Bibliographic Irregularities in the Original Document:

List all volumes and pages affected; include name of institution if filming borrowed text.

____ Page(s) missing/not available: _____

____ Volume(s) missing/not available: _____

☒ Illegible and/or damaged page(s): text cut off - pages [3] - 4; stains throughout title

____ Page(s) or volume(s) misnumbered: _____

____ Bound out of sequence: _____

____ Page(s) or volume(s) filmed from copy borrowed from: _____

____ Other: _____

____ Inserted material: _____

TRACKING#:_MSH32209



No 3 SPEECH

336

2

v. 7

LIBRARY OF
THE OFFICE OF
THE SECRETARY OF THE
TREASURY
WASHINGTON, D. C.

MR. FRELINGHUYSEN,

ON

THE REMOVAL OF THE DEPOSITES;

DELIVERED

In the Senate of the United States, January, 1834.

WASHINGTON:

PRINTED BY GALES AND SEATON.

1834.

SPEECH.

The Senate having under consideration the report of the Secretary of the Treasury, laying before Congress his reasons for removing the Public Deposites from the Bank of the United States, and the following resolutions, submitted by Mr. Clay:

1. *Resolved*, That, by dismissing the late Secretary of the Treasury because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion; and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people.

2. *Resolved*, That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States, deposited in the Bank of the United States and its branches, communicated to Congress on the 3d day of December, 1833, are unsatisfactory and insufficient.

Mr. FRELINGHUYSEN addressed the Senate as follows:

Mr. PRESIDENT: The report of the Secretary of the Treasury made to Congress, on the removal of the public deposits from the Bank of the United States, involves a grave question of political power, interesting to freemen, and eventful in all its relations—to the Secretary, the Executive and the country. I had entertained the hope, sir, that it might receive calm, free, and full discussion. The occasion seemed to be propitious to such hopes. The Executive had entered upon his second and probably final term of office. He had been again exalted to that elevated station by a amount of suffrage almost without example. There could exist no motive, in any just mind, to obstruct his measures or embarrass his administration of the Government, without cogent and pressing reasons? What should, therefore, hinder the dispassionate and unrestrained investigation of the great principles of fundamental law, which as well found as assign distinct portions of power to the several and co-ordinate departments of the Government? Alas, yet, Mr. President, no sooner is a voice raised in Congress to question the late act of the President removing the deposits, than the loud clamors of the press assail and denounce all interference and controversy. I have complained to make that is deep and strong against this procedure. Sir, it is among the prominent proofs of the tendency towards inordinate power in the Executive, that a measure of national policy cannot be opposed or doubted but it is at once construed into hostility to the President. The man is placed in front of the measure; and if you resist his measures, you are regarded as inimical to himself. This intervention of personal popularity, to sustain or carry through the plans of public policy, is adverse to the very genius of our institutions. The great principles of our Government refer to its three Departments, more as political existences, to be chiefly known and felt in the benefits and blessings that may flow to the people through their agency. We would all consider it a marvellous attempt that should endeavor to

hold the judiciary, or the Congress, by the popularity of the members composing these bodies. Sir, we review their doings; we look into the reasons of judgment, and into the causes for legislation, and approve, or otherwise, as the matters decided or enacted commend themselves to right reason and sound policy. But how is it with the Executive in practice? what have we seen in this very measure now under consideration? Why, sir, a cabinet paper, read by the Executive to his council, so confidential, in his view, that a copy is refused to the Senate, is yet directly, and long before the meeting of Congress, spread before the people! Wherefore this singular proceeding? I had been taught to believe that the constitution intended to check this propensity by interposing the co-ordinate and legislative branches of the Government.

We are met, at the threshold of this discussion, by an objection that, if it prevail, will effectually shut the door upon all investigation by the Senate into the powers of the Executive, and encroach upon much of its legislation. The difficulty is raised on the peculiar constitution and powers of this body. The Senate holding the functions of a judicial tribunal in the trial of impeachments, it is objected to the resolutions under consideration that they charge the Executive with high crimes and misdemeanors, and that it is inconsistent with the decorums of our political relations to impute such charge. Now, sir, for answer to all this, I maintain, in the first place, that the Senate could not, in the faithful discharge of its public duty, yield to such a plea against its interference; because, having in its possession legislative, executive, and judicative powers, it is bound to exercise them, as they respectively come before it; and if any seeming collision should even occur, why, sir, we are not therefore to shrink from the discharge of our duty, but advance in it, as we may, with the partial inconveniences of occasional clashing. But, in the next place, sir, I cannot agree that the resolutions, rightly considered, contain any imputation of crime or misdemeanor. They affirm, of the course pursued by the President towards the Secretary of the Treasury and the deposits, that it is an infringement of the constitution, and therefore dangerous to the liberties of the people; and this may be predicated of every departure from the fundamental law of the Union. But does this charge, or even imply crime in the Executive? Far from it. How, in fact, does this question stand in relation to all the departments of the Government and country? Why, sir, the powers delegated and the powers reserved in our constitution, are, and have been, from the beginning, matters for constant animating, and I will add honest discussion and collision. If to differ on these great points implied crime, the atmosphere of both Houses of Congress would be very dangerous; for, throughout our whole history, these have been scenes of thrilling interest and debate. The intercourse of the Executive with Congress will take off the edge, at least, of this grave charge. He frequently returned bills with this only objection, that they violated the constitution. Sir, the bill sent to him on the very subject of this Bank was sent back, among other reasons, because some of its provisions were inconsistent with constitutional law. And did the President, therefore, impute to Congress the wicked and corrupt design of violating the constitution, which alone amounts to crime and guilt? I trust and believe not. I really considered his objection, when it was first urged, as an equivocal kind of defence. I did not believe the Executive would hold it in much favor; for, to do him justice, I will say that he is not apt to shrink from the responsibility of his measures. He comes manfully along by the side of his public acts, and, had it not for his official organ, made a serious point of it, I should have concluded that his way of magnifying indifferent matters, this aggravating of misapprehen-

sion into crime, for the purpose of shutting out all scrutiny into the conduct of officers, was not acceptable to the President himself.

These resolutions presuppose, that, however we may differ with the President on the nature and extent of his powers, in him, as well as ourselves, it is an honest diversity of opinion; that the constitution, consisting of fundamental rules alone, must contain little more than general principles, on the construction of which we must expect various and conflicting interpretations.

Having removed these preliminary difficulties, I beg the indulgence of the Senate to a brief consideration of the late Executive order, which has been the cause of such deep and wide-spread alarm and distrust. Gentlemen have endeavored to find an apology for this measure in their opposition to the Bank as a national institution; they have denounced it as a dangerous and daring agent; and have even invoked the spirit of the revolution to strangle the monster. We have been told that this achievement is yet wanting to complete the President's career—to fill the measure of his fame with all the rays of glory that it can hold. Sir, I mean the remark in no disrespect, but such extravagant terms struck me as quite ludicrous. The Bank a dangerous agent, sir! Where is the proof? Is it in sixteen years of prosperous commerce and business? Does the thriving industry of the country, animated by certain wages and sound pay, show it to have been disastrous? Under its healthful influence, the *poor man, when he earned a dollar, had a dollar*; and is this ground of accusation? or were the streams of your prosperity too full? If any dangers have attended the operations of the Bank, they have been those which result from successful enterprise, and its rich rewards.

It is amusing to recall the struggles of the revolution to our aid, when it is matter of history, that, while its eventful scenes were yet near and fresh, when the triumphs of freedom were complete, and its foundations well laid in our political system, among the first cares of the exalted men who had borne the heat of those conflicts, was the regulation of currency by means of a national bank. Strange, indeed, if so mischievous to free institutions, that the jealous and watchful spirit of our forefathers not only did not discover it, but actually created the monster, and gave it power and privilege. Let me refer the Senate to the report of Mr. Hamilton, as Secretary of the Treasury, made to Congress in 1791, on the subject of the finances, and a national bank. I will read only a few extracts from this most able paper; they are the conclusions of a mind without a superior in the political history of our country; a mind, sir, as lofty and pure in its patriotism, as it was sagacious, discriminating, and sound. Hear his emphatic testimony to the usefulness of banks:

"It is a fact, well understood, that public banks have found admission and patronage among the principal and most enlightened commercial nations. They have successively obtained in Italy, Germany, Holland, England, and France, as well as in the United States. And it is a circumstance which cannot but have considerable weight in a candid estimate of their tendency, that, after an experience of centuries, there exists not a question about their utility in the countries in which they have been so long established. Theorists and men of business unite in the acknowledgment of it. Trade and industry, wherever they have been tried, have been indebted to them for important aid; and Government has been repeatedly under the greatest obligations to them in dangerous and distressing emergencies. That of the United States, as well in some of the most critical conjunctures of the late war as since the peace, has received assistance from those established among us, with which it could not have dispensed."

Are these things so? and who can doubt or deny them? and with what justice can we drive on this unnatural warfare against an institution that, left to pursue its fiscal agencies, has always been productive of benefits? A bank was created by the Congress of 1791; and although the renewal of its charter was at its first application refused, yet good sense and the public welfare soon prevailed, and banking powers and privileges were again granted in 1816. So that we can now summon the experience of nearly forty years to dispel all these fears, and silence every prejudice. Let us not be misled by odious names; these are miserable arguments. To ring the changes of "*monopoly*," "*monster*," "*hydra*," &c. may gratify passion, but will not sanction usurpation, nor alleviate distress.

Mr. President let it be granted that the Bank is dangerous, when perverted—we must still employ it. Such is the case with every useful auxiliary. The same energies which are so beneficent when faithfully exerted, become terribly potent for evil when misdirected. It would be unwise, for such possible misuse, to deprive ourselves of these effective means of promoting the national welfare.

Sir, I will now come to the order removing the deposits from the Bank of the United States. This tremendous measure has convulsed the most tranquil season of prosperity which this country has ever enjoyed. Tranquil, not only because all were peacefully and successfully prosecuting their labors, but also because of the universal satisfaction of this great community with the financial administration of the Bank. Not a remonstrance or murmur was heard from any district; currency was uniform; the facilities of commercial exchange were most convenient; agriculture, manufactures, and commerce, were fully employed. Yes, in all of them there was a current of prosperity that almost excited alarm from its fulness and rapidity. At such a time, Mr. President, the blow is struck at the vitals of public confidence; when the pressure of trade and extended credit required the steadiest and sternest regularity in all our fiscal operations; at such a crisis, rashly to assail and derange the whole currency of the country, was not only a high-handed reach of arbitrary power, but a cruel trifling with the rights, feelings, and fortunes of the people, utterly indefensible.

And when we proceed to question such alarming pretensions of Executive power, we are met by threats and outcries; the bitter calumnies of excited presses are let loose to write us down. Sir, I rejoice to know, and to feel, that such intimidations will not reach this council chamber, where freemen still assemble, and dare to breast the storm of party rage, and stand by their country and its best interests. It is humiliating to our national character, that no sooner did illustrious statesmen raise their voice against this act of the President in the other hall, than they were denounced with the calumnious insinuations of being "bank attorneys," rising in Congress "to earn their fees." Men, of whom any country might boast, are thus insulted; and, for what? Because they do not bow, in silent and obsequious subjection, to the mandate of arbitrary power; because they dare rise in the spirit of their fathers, and dispute, inch by inch, Executive encroachments. This, sir, and not money, roused up the revolution of '76. The exercise of *ungranted power* was the very marrow of that great controversy; and so it is here, and now. Moreover sir, I believe there is great misapprehension in the supposed dangers of the money power. When has it been arrayed in hostility to the Government? No instance in all history can be found where it has been able even to sustain itself against the political power of a country. The jealousy of its influence is so deeply rooted, and so strong, that nothing can so readily be excited as prejudice towards wealth; nothing can be, with so little

reason, cried down. Why, look to the very case before us. Here is a useful auxiliary, heretofore enjoying the confidence of Congress—of the State banks—of most of the heads of departments; it has become obnoxious to the Executive, and, by his single mandate, he has so struck at its credit, that nothing but singular forecast and consummate prudence could have saved it from ruin. Sir, it is the weakest of all the attributes of power. It is only when seized into the hands of political power that it becomes dangerous to liberty.

The Secretary of the Treasury, in his report, founds his authority on the charter of the Bank, and insists that, by its terms, his power over the deposits, so far as the interests of the stockholders are concerned, is "*absolute and unconditional*;" and that, therefore, his order directing the public money to be deposited elsewhere can, in no event, be regarded as a violation of the contract with the stockholders. As this is a most important branch of his argument, it is entitled to serious consideration; and I am under great delusion, if the construction given by him to the charter be not shown to be utterly without support or plausibility. He has, with great ingenuity, endeavored to subject the interests of the stockholders to his unqualified discretion, that he might the more readily construe the whole control of the deposits into a mere matter of finance by an executive department of the Government; and, having placed it there, he deemed the conclusion inevitable, that the President might, through the Secretary, do as he pleased with the public moneys.

But the charter, under no view of it, invests the Secretary with such discretion. The charter, as he admits, is a contract between the Government and the stockholders of the Bank. The United States, as one party to the agreement, grant banking privileges to this company. The company agree to pay for them one million and a half of dollars. But further services are required of the Bank, of essential importance to the public. It is to transfer the public funds from place to place within the United States and territories thereof, without any commission, or allowance, or difference of exchange. And the sixteenth section, which immediately follows, yields to the Bank a remuneration for these facilities. These are the terms of it: "The deposits of the money of the United States in places in which the said Bank and branches thereof may be established, shall be made in said Bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case, the Secretary of the Treasury shall *immediately* lay before Congress, if in session, and, if not, *immediately* after the commencement of the next session, the reasons of such order or direction." Let it be noted that the power here given to the Secretary is a limitation upon a benefit granted to the Bank. The United States were unwilling to put this benefit beyond all control, inasmuch as the Bank might fail to fulfil its stipulations, or become an unsafe depository. As the Secretary of the Treasury is presumed to possess superior financial talents and experience, he is selected by the parties as a fit judge to decide when the condition of the Bank should demand so special an interference as by this order is supposed. But this is only one side of the subject. The Bank agrees to his decision, provided that Congress should become the ultimate tribunal to review his conduct; and for this end, the remaining clause requires of the Secretary *immediately* to lay before Congress the reasons that induced his order. Now, the first reflection that forcibly strikes the mind on this whole section is, that, as it concerns the finances, a financial officer, and a financial institution, the reasons intended were financial reasons—the motives which might sway a sentinel set to watch over the Treasury. And the next reflection of still stronger force is, that, if the occasion on which the

Secretary may issue an order removing the deposits is to be justified by *reasons* that are required to be *immediately* laid before Congress, why, his discretion is in no sense absolute, but is qualified by the strongest possible implication. See how cautiously his power is checked. He is not to report to Congress the mere *fact* of removal, but the *reasons*, and this *immediately* on his order, if Congress be in session, and, if not, immediately after its session. Wherefore this repetition of such *prompt* requirement, if it was not regarded as an extraordinary case, only to arise on pressing emergency, and of which Congress, the guardians of the money, should be at the earliest moment informed? What becomes of his absolute and unconditional *discretion*? He never had it. It is controlled most essentially. How can we speak of *discretion*, where we must furnish reasons to a superior, and that without delay?

It is discretion under the strongest restraint; and the stockholders are protected in their privileges by this effective clause. Can it be then even plausibly maintained, that, so far as the stockholders are concerned, the Secretary may act without reasons, just when and as he may think fit? Surely not.

But again: They are the reasons of the *Secretary*, and of no other functionary. This is the contract as made by the Government, and officially assented to by the Executive. It binds both parties and all departments. The Secretary is the only judge the Bank has agreed to. It is a personal trust, to be regulated and reviewed in its exercise by Congress. Now, under such plain powers, can the President interfere? Can he, by his *fat*, break over the Secretary and the Congress too? When the Secretary adjudges deliberately that *no reasons* exist for a removal of the moneys, (and, of course, there can be none to report to Congress,) can the Executive turn upon this officer, with an arbitrary command to remove the money, without reason, or be driven from the station where the Congress had placed him? Sir, does the bond read thus? Can it be tortured into such meaning? No, sir. Neither the Congress nor the Bank could have supposed that such interpretation was possible. The section refers to no person or party, by the slightest intimation, except the Secretary of the Treasury, the Bank, and Congress. Gentlemen on the other side of this question have attempted to sustain the Executive by insisting on his power of removal over the officers of the Government. I know, sir, that when the departments were established by law, there arose an argument on this point, and great diversity of sentiment. Some admitted, and others denied the existence of such power in the President; and General Hamilton, in one of his numbers in the Federalist, distinctly states that the Executive cannot remove an officer, except in the manner that he appoints him—with the advice and consent of the Senate. Such is a strong inference from the clause in the constitution which authorizes the President to fill a *vacancy* that may happen during the recess of the Senate. For, if he may, by his general executive powers, create a vacancy, and then fill it, without the Senate, why was the above clause inserted in the constitution of the United States? And the legislative construction of the removing power is by implication altogether. The question was not then, nor has it since been, directly decided and settled; so that it remains, at the most, a doubtful matter.

And, thus regarded, the Bank charter, passed by Congress, in conjunction with the Executive, provides for the keeping and care of the public moneys; and, by positive requirements and the plainest inference, it detaches the subject from the range of executive authority, and puts it under the immediate supervision of Congress; and it does this with the full understanding and consent of the President.

This construction is fully confirmed by a further consideration. In the 23d section of the charter there are other duties besides those of a financial nature to be performed. There may arise political reasons for calling the Bank to an account—as the want of confidence in its stability, or its violation of the provisions of the charter. These matters properly range themselves under executive authority, as well as legislative. And here, if a committee of Congress report to that body, or the President has reason to believe that its charter has been violated, the Congress or the President may order a *scire facias* to issue against the Bank, calling upon it to show cause wherefore its charter shall not be forfeited. This section devolves high duties on the Executive by name. When this law means to invest him with any power in the matter, it says so; and the argument is almost irresistible, that, when it is silent, no power arises to the President. The different functionaries are properly confined to their appropriate spheres of action. The Secretary has no control over the *scire facias*, nor has the President of the United States over the deposits.

Why should this, by such special clauses, refer to the President, and define his duties and powers in relation to the Bank, if, as is contended, he has general control, by virtue of his office, over the money of the Government and every officer? It is manifest, sir, that Congress meant to put the finances of the country beyond the scope of executive discretion, and for wise and strong reason. And this charter, while it is the contract of the immediate parties, is the law of the land to regulate the currency, and the keeping and care of the public moneys. And yet what have we witnessed? In a case where the Secretary of the Treasury reported that the deposits were safe, and that he found no cause to disturb them, the President, in his power, threatens him with expulsion unless he *find reasons* to remove them. The President forces himself between the Congress and its officer, and actually drives him from office because he had the manly firmness to follow the dictates of his own judgment and conscience; because he dare, with the noble spirit of inflexible integrity, look power in the face, and tell it plain and wholesome truth, that, as he knew of no reasons that he could *lay before Congress* for such an order, should he make it, he very justly concluded that he had no right to make it. Not only this, but the Executive persists in his interference until he is provided with a Secretary *who will* put his name to the rescript, and violently abstract eight or nine millions of dollars from the accredited depository of our moneys. Sir, there is no parallel for such arbitrary encroachment. The rights of Congress and of the Secretary, and the chartered privileges of the stockholders of the Bank, are alike invaded, and under circumstances that should have persuaded the President at least to a pause.

At the session of Congress immediately preceding the President had induced an investigation into the condition of the Bank. A part of its directors had been summoned to Washington and examined; and, after a full hearing, the committee reported in favor of the institution and against the removal of the deposits. And after this satisfactory inquiry, before another Congress could assemble, within only two months of its session, as if conscious and afraid of its course, the Executive, on his own motion and responsibility, suddenly, and by great violence, issues the order for removal of the moneys. The proceedings of the last session on this subject deserve a little further notice, as they reveal to us much of the causes for alarm. The President, in his message at the commencement of the Congress, refers to the Bank in the following terms: "Such measures as are within the reach of the Secretary of the Treasury have been taken to enable him to judge whether the public deposits in that institution may be regarded as *entirely safe*; but,

"as his limited power may prove inadequate to this object, I recommend the subject to the *attention of Congress*, under the firm belief that it is "worthy of their serious investigation," &c. The Senate perceive that, so lately as December, 1832, the Executive was only concerned for the *safety* of the moneys, and that he then rightly conceived that he must bring the subject to the consideration of Congress, as under its legitimate jurisdiction. The conception had not then reached him that he might interfere in utter disregard of the other branches of the Government. But this was not the only ground for delay and advisement. When the Executive opened his views to his constitutional advisers, he found three of his four Secretaries opposed to the measures he proposed; and one of these three, the Secretary of the Treasury, best acquainted with the merits of the subject. Was not all this sufficient to stay his hand for a few short weeks? No, sir. The President, instead of suspending, rashly drives the measure, and exhibits to the American people the singular spectacle of Executive will, in defiance thwarting all the co-ordinate powers of the constitution. Here you perceive, sir, the startling cause of this wide-spread alarm. Men see that laws are become dead letters, and that *discretion* rules the country. They will tolerate discretion, and even be lavish of their confidence in it, while it ranges in the sphere of the poll-boxes, and is felt in the bestowment of Executive favors; but when their business and money are concerned, they desire some more substantial dependence.

The use of the writ of *scire facias*, and the prescribed occasions on which the President and Congress are authorized to employ it, afford strong and almost conclusive guides in seeking for the powers of the Executive. Sir, when may this writ issue against the Bank? I take the words from the law—when there is "*reason to believe that the charter has been violated*." And what is, what can be, a violation of the charter, but an infraction of the provisions of the charter? Can we look to any thing else besides it? Gentlemen have called to their aid the Executive duty of seeing "that the *laws* are faithfully executed." Well, sir, *here* are the laws, consisting of seventeen fundamental articles, that are to regulate and control the conduct of this Bank; and should they be neglected or broken, the President is to exercise his conservative authority, and attend to their faithful execution, by ordering a *scire facias* to forfeit the violated charter. This, sir, is plain, defined, and safe power and duty, as Congress most wisely intended it should be. The people understand all this; they feel secure while the path of known law is pursued. But this constructive reach after general discretion over the moneys of the Government, to remove it when he pleases, and to leave it where he pleases, and as long, is a dangerous pretension, justly alarming to the spirit of freemen.

What put the moneys into the State banks? The same arbitrary power which can remove them to-morrow; and no marvel that the confidence of the whole community is shaken. Sir, it is a blow at the majesty of the laws, aimed by the hand appointed to maintain and defend it; and the President will learn by the event that his bidding may destroy credit, but cannot repair it. And we have been gravely informed that no alleviation is to be expected, and that the people must endure with fortitude and patience. Sir, the Executive seems to be trying the strength of his popularity. I advise him to beware. The vain confidence of power is not always the surest indication of its stability. There are depths of suffering beyond the patience even of his political friends.

Mr. President, in review of this transaction, I am constrained to inquire by what untoward influences has it been accomplished? When that elevated

circle of honorable council dissuaded, who rashly urged on? Who visits the State banks? Who figures in the correspondence, and promises public favors? Who kindly explains wherefore it was that one of the banks could not receive a share of the bounty as it went round? Who exults in the expected downfall of the Bank, and describes it as "a reptile beneath the feet of the Secretary of the Treasury, which he could crush at will, which existed only by his forbearance, and towards which great forbearance was required to save it from destruction?" We know whence all this has sprung. And, sir, I could, with deep concern and desire, invoke the honorable friends of the Executive to rise in their strength, and, with an energy and earnestness not to be denied, insist upon the expulsion of a debasing and pestiferous influence, and recall the administration of our Government to better counsels. It would be a magnanimous interposition; and a grateful people would honor the men that should engage in it.

It is vain to boast of a free popular Government, if we may be subjected to any dominion besides the laws. This has been our boast, sir, that under Heaven we knew no other master. Popular, sir? Look at the Bank question. Where have stood the Representatives of the people; the Senate of the United States; the State banks; the chambers of commerce; the Secretaries of the Treasury, and nearly all the other Secretaries!—all in favor of this useful financial agent—and yet the will of one individual can break through all these barriers, and carry his own single purpose. What is there popular in such a measure? As well might we say that Caesar or Napoleon were introducing popular rule when they took the crown and seized on the liberties of the people. For in both cases the plaudits of vast majorities rung the very skies at the deed, and the few feeble voices of a resisting Senate were drowned in the clamor.

I propose to glance at a few of the prominent reasons presented in the report of the Secretary of the Treasury. Sir, my instructions require of me to sustain by my vote and influence "*the course of the Secretary*." And after an anxious examination of his reasons, I can find nothing but a strict, legal argument, by an ingenious lawyer, on the wrong side of the question. The conclusions are erroneously drawn from mistaken premises. I dissent from the whole plea, the beginning, middle, and end of the matter. And it may be my misfortune that the longer he argues the more stubborn becomes my unbelief, and the more invincible my opposition to the measure.

The Secretary tells us that it was a question of *time* only, and he has selected the worst of all time. Never, since the settlement of the country, could a more unpropitious period in business have been chosen. Senators have urged, in attempting to account for the distress, that there had been an over-trading in commerce. Grant it, sir, and that very circumstance called loudly upon the Government to cherish all our means, to husband every facility; in a word, to do all in its power to nourish and sustain the credit of the country; and yet, at such a crisis, without waiting for the deliberations of Congress in a measure so fraught with probable mischief, to forestall its action and embarrass its legislation, a step is rashly taken that all considerations must have persuaded him would be followed by strong results. Again, as to the *time*: here were two years and a half of the charter yet unexpired for active business, and two more years for bringing its affairs to a close. Why then such haste? Is it ever wise, in great state affairs, to run so rapidly to conclusions? Time, sir! there was time enough for the Bank gradually and safely to call in its circulation, curtail its discounts, and finally conclude its operations, without loss to itself or the country—without any shock to credit or interruption to trade; and yet the Secretary is prompted, most

marvellously, by *the time*, to break in upon the regular current of most prosperous business. The Secretary thinks there may be just doubts of the ability of the Bank to be prompt in its payments to the Government, by reason of its circulation returning towards the termination of the charter. This is certainly an extraordinary proposition to proceed from a financial officer. A moment's reflection ought to have suggested, that when the curtailment of discounts and contraction of circulation commenced, the Bank, as a mere place of deposit, would become safer every hour. Sir, it is discount and circulation that endanger deposits. It is when these are expanded that concern should be felt, and not when they are constantly and gradually contracting. I have no doubt that the deposits would never be safer than on the last day of the Bank's existence. Why should they not, sir? Would not the walls and the vaults be as impregnable? and, in all the range of calumny, no one has been so hardy as to impute personal dishonesty to the president or directors. If the Secretary had urged this as a reason for selling out the stock of the United States in the Bank, it would have been plausible; for it is very probable that this cause might affect the profits of the business, and, of course, the rate of dividends and value of the stock.

But the Secretary proceeds, and in the next place complains that the Bank was *curtailing its discounts*; and therefore he would, most unwisely, remove its means of discount, and absolutely compel it to curtail more rapidly and injuriously. Hear the strange conclusions of the Secretary. He says, *if* the Bank had adhered to the oppressive system of policy which it pursued during the two preceding months, a wide-spread scene of bankruptcy and ruin must have followed. This is a plea to justify the removal, be it remembered. And yet, when it was conjectural, on the Secretary's own case, whether the Bank would adhere, when this wide-spread ruin was all imaginary, and there was not the slightest indication of it in September last, he violently strikes at the resources of the Bank, and, by this rash act, produces the wide-spread ruin and bankruptcy that he so much feared. Sir, as to the justice of the complaint against the Bank for curtailing its business, what is the case? Why, it was known as early as August that the President was meditating this deed. His official organ sent out the notes preparatory; and because the Bank heeded the warning, and expected the coming storm; or, rather, because it did not consent to receive its visitation without the common prudence of taking in a single sail; because it did not choose to fall "at the feet" of the Secretary as a smitten "reptile"—it is here held up as a monster, trifling with the rights and feelings of its dealers. How has it curtailed, sir? Only as its means were reduced or threatened. Why, the argument seems really to suppose that there is a magic in the very name of this Bank; that money will flow from its counters at the bidding of its President. And yet, no wise direction could justify themselves in extending their business beyond their actual strength. A bank can with no greater prudence or fairness promise to pay money, when it has not the money, or good reasons to expect it, than an individual. It would be downright unlawful speculation in either.

The Secretary endeavors to sustain the order removing the public moneys by a consideration which, to prevent all mistake, I will give in his own words: "The State banks can, I have no doubt, furnish a general circulating medium quite as uniform in value as that which has been afforded by the Bank of the United States—probably more so. For it is well known that, in some of the cities, the branches of the Bank have been in the habit, whenever they thought proper, of refusing to honor the notes of their own Bank, payable at other branches, when they were not offered in discharge of a debt due to the United States." This I hold to be one of

the boldest financial propositions ever put forth: that the State banks can furnish, probably, a more uniform circulating medium than the United States Bank has afforded. He has no *doubt of it*. Sir, other Secretaries of the Treasury have been constrained not only to doubt, but to be deeply convinced that this notion of the present officer cannot be even plausibly maintained. The whole experience of fifty years contradicts it. The charter of the old Bank of the United States expired in 1811. Congress did not renew it. The experiment of State bank operations was fully and fairly made; and what followed? In a very short time, the suspension of specie payments. In 1815, the then Secretary of the Treasury, in his report on the finances, brought the matter before Congress, and invoked its aid, that a remedy for the existing evils might be provided. Hear his emphatic language:

"The suspension of payments in specie, by many of the most considerable banks of the United States, and of those most important in the money operations of the Treasury, has produced and will continue to cause difficulties and embarrassments in those operations. The circulating medium of the country, which has consisted principally of bank notes, is placed upon a new and uncertain footing; and those difficulties and embarrassments will extend, in a greater or less degree, into the pecuniary operations of the citizens in general. The powers of Congress, so far as they extend, will be required to be exerted in providing a remedy for these evils, and placing, if practicable, the currency of the country on a more uniform, certain, and stable footing."

The following year the Secretary of the Treasury (Mr. Dallas) presented to Congress the results of experience and his own profound reflections on the merits of State bank and national bank agencies. As it was a communication made in the midst of an experiment now to be repeated at such damage; as it is the voice of history, bringing us its wholesome admonitions, I beg leave to give a literal extract from his report:

"The authority of the States, individually, or the agency of the State institutions, cannot afford a remedy commensurate with the evil, and a recurrence to the national authority is indispensable for the restoration of a national currency." And again:

"The establishment of a national bank is regarded as *the best*, and perhaps *the only adequate resource*, to relieve the country and the Government from the present embarrassments; authorized to issue notes, which will be received in all payments to the United States, the circulation of its issues will be co-extensive with the Union; and there will exist a constant demand, bearing a just proportion to the annual amount of the duties and taxes to be collected, independent of the general circulation, for commercial and social purposes. A national bank will, therefore, possess the means and the opportunity of supplying a circulating medium, of equal use and value in every State, and in every district of every State." Mr. President, we are indeed in the midst of a revolution, when the lessons of experience and wisdom are to be unlearned, and the prosperity of this country subjected to the sad consequences of rash experiment.

But the Secretary furnishes a reason for his preference of the State banks in very cautious and measured phrases. He says, that "in *some of the cities* the branches of the Bank have been in the habit, *when they thought proper*, of refusing to honor the notes of their own Bank, *payable at other branches*, when they were not offered in discharge of a debt due to the United States."

In the first place it is to be observed, that he admits distinctly that whenever the United States were concerned, these distant notes were honored—so far it is well. What, then, is the difficulty? Why, the branches, in some of the

cities, re-serve the right, when *they think proper*, of refusing to pay notes payable at other branches. Mark the language. He does not affirm that this is uniformly or generally so—but when they think proper. Now, sir, how can they or any banks do otherwise? It is beyond the power of any agency to produce a perfect uniformity between places the most distant—to make a note payable at New Orleans of precisely the same value at Portland. The United States Bank has brought it as near as could be expected in any reason; and because they have done what all moneyed institutions must do, retain, in their own discretion, the payment of distant notes, and this to protect them against drafts by mere speculators, who might be tempted to drive such a business to their profit and the loss of the Bank, the Secretary is persuaded to an *undoubted* opinion of the superior ability of the State banks to establish a uniform currency.

Sir, it is matter of astonishment, that any mind can, for a moment, believe in this State bank experiment in preference to a Bank of the United States. Why, sir, its national name alone imparts a credit to it, of vast importance at home and abroad. This gives it a character and stability that facilitates its operations and introduces it favorably on every exchange. Moreover, the National Bank has the supervision of all its branches, to the minutest item—all their accounts, deposits, dealers, the foot of every ledger and the control of all their administration. It can, by its universal superintendence, know at once where pressure is to be provided for, and supplies will be needed; and thus strength to spare at one point can be promptly afforded when required at another.

But look at these State agencies, with no common bonds, each independent of the other, with no power of control, no right of inspection, and *all of them irresponsible* to the United States—a fraternity held together by not a single principle of union, except that they are all in favor with the administration and hold portions of the public moneys. Sir, it cannot be that such a collection of agents should meet the wants of the country and the just expectations of its business, in the manner that *one Bank*, created by Congress and responsible to Congress, has accomplished these beneficial purposes, and can again.

The last charge preferred against the Bank, which shall be noticed, is, “that it has been, and still is, seeking to obtain political power, and has used its money for the purpose of influencing the election of the public servants.” I have failed altogether to perceive the force of this charge as an inducement to the action of the Secretary. Here have been expended twenty or thirty thousand dollars, in the publication of speeches and reports on the Bank question—expended with the knowledge and wish of the private stockholders; and the Secretary removes eight millions of dollars of public money from an institution that still had ten millions of specie, thirty-five millions of capital, and in the full tide of business—and this to *cripple its ability to print pamphlets!* Sir, it is perfectly ludicrous—as a reason for the removal, I mean. And besides, why may it not print temperate and manly discussions on such an interesting subject of political science? Why may it not enlighten public opinion on its own claims and merits? Its charter was a *subsisting* one. The Executive thought proper in 1829, seven years before its expiration, to throw out doubts of the most injurious tendency; in the following year a distinguished Senator, on the side of the administration, laid on our table a distinct proposition, that it ought not to be rechartered; and this was followed by an elaborate argument in opposition to the Bank, impeaching its usefulness and faithfulness. These matters were all published widely. In many material respects they were deemed by the officers of the Bank to have misapprehended its

conduct and principles. What could they do else, than endeavor respectfully to set these matters right? They were liable to judicial scrutiny, and surely, sir, we are not at that point of humiliation, when the right of self-defence is considered audacious—when to repel injurious aspersions is denounced as deserving the frowns of power! Sir, the President and Directors of the Bank had not only this right, but they might and ought, as faithful trustees, seek a renewal of their chartered privileges. Political electioneering, sir! We are all political electioneers. Who is exempt from the charge of desiring a continuance of political favor and confidence? The Executive, I believe, sir, must come in for a share; and because these aspirations lead to discussions that are free and animated, they are not, therefore, to be suppressed. Far from it. This excitement of public debate—this collision of mind with mind—this entire freedom of the press, is the healthful action of our institutions. Let every American citizen ponder deeply the sentiment, that such public and fearless discussion on public measures and men can never become offensive except to arbitrary power. While our laws, and not men, rule us, this sacred privilege, guarantied by the constitution, will be cherished and firmly maintained.

But gentlemen have insisted that the Bank had no right to form an issue on the question of a recharter; that this concerned no parties but the Government and the country. If we just separate from the word “*bank*” all the odious imaginations that prejudice and policy have gathered around it, and, returning to common sense, realize that the Bank is no other than a large and respectable body of our fellow-citizens spread over the United States, equally entitled with any other portion to the protection of subsisting rights and the renewal of public privileges, this objection will assume the very type and spirit of the purest tyranny. What is its language to these American citizens? “On the question of recharter or not you must be silent. If we, the Government, permit you to subsist, then you may adjust your members to perform the functions of life; but, should we ordain you to cease, why, in such case, you must quietly lie down, without a word of petition or remonstrance.” Sir, freemen cannot brook such terms; and, rely upon it, be the subject a bank or whatever else, they will resist and repel such oppression. And yet the freedom and purity of the press are among the motives of the Executive for this breach upon the vested rights of the Bank. I had supposed that, where the press was free, the humblest as well as the highest might use its power; and was it an offence for the Bank to resort to its aid in a matter where both Houses of Congress had, by deliberate legislation, ordained that it had been a faithful servant, and was justly entitled to a renewal of public confidence? Sir, it seems to be a material point on which side of the question this freedom of the press ranges. If it touch the outer skirt of Executive prerogative, it is denounced; if you write against power, you shall feel its vengeance; write for it, and you shall bask in the very sunshine of its smiles. Purity of the press! Turn over the recent files of the official organ, and on its pages respectful memorials to Congress are *vilified*, and the remonstrances of complaining freemen are held up to scorn, as being many of them fictitious names, put down in fraud or plundered from the tombstones of the grave-yard; and yet, sir, we have not heard of any measures to correct such calumniations and restore the purity of the press. Let us not recall the seditious law of departed federalism. Sir, if that was a whip, this is a scorpion. That prohibited the publication of falsehoods, and this will not tolerate the circulation of truth. That mistook the temper of the people, and the law was generally unpopular, not because the public felt any complacency in slanders, but because it was a

branch of legislation of very doubtful authority, and might lead to lasting infringements on the freedom of speech. Then, you perceive, sir, the people were jealous of a power that could only be effectually exerted by the concurrent action of the Congress and the Executive, and through the judicial tribunals of the country. And what have we now, sir? The Executive alone, on a *bank charter*—a mere creation of a financial corporation by refined implications, against the will of Congress, and without the intervention of judge or jury—under the wide-reaching and plausible guises of purity of public morals and liberty of the press, grasping at a discretion above the laws, unknown to the constitution, and dangerous to our liberties.

This document has been placed to the account of the Secretary's early federal notions. Sir, it is no product of that school. It is an alien excrement; and my best hope for the Secretary, politically, is, that the principles of policy, drawn from the constitution, may yet regain their influence over his mind, and break the delusion under which it now labors. Sir, I cherish a filial veneration for the federal party; as I entered upon active life, it was departing. In the review of its history I am persuaded that it did, in some material respects, mistake the genius of our institutions and the spirit of our people; but, sir, as I read the developments of time, every day of our political history has vindicated the purity of its motives, and illustrated the soundness of its principles. In the language of Mr. Jefferson, and according to the soundest philosophy of politics, the great mass of the American people have always been, and now are, "all federalists, and all republicans." It is the federalism of the constitution that I honor—the system of fundamental law, as expounded by Hamilton, Madison, and Jay, and administered by Washington, and most of his successors. I never drank at any other fountain, and wish to follow no other guide. And however in seasons of tranquillity, when the sun shines brightly, and the waters are calm, we may venture to condemn or neglect these good old principles; when the tempest begins to muster; when the high ways are broken up, and the billows of convulsion break over us and around us, then, sir, when every face is sad, and every heart is heavy, we almost instinctively seek refuge and guidance in our federal constitution; we will then follow no other leader; it is the only shield that affords security. It is, indeed, sir, a copious and perennial fountain; copious, to supply all the social and political wants of this great confederacy, and of vital energy fully adequate to impart its rich benefits still wider, as the lines of our Union shall expand and encompass many more noble States. Yes, sir, far as the intrepid enterprise of our people shall urge the tide of emigration towards the setting sun, until all over the valleys and hills of the west freemen shall rejoice in their blessings, and not an unoccupied acre remain on which to raise a cabin or strike a furrow.

Mr. President, if, in the benignant councils of a merciful Providence, it shall please Him to perpetuate our liberties, I believe that it will be through the agency of these principles. And should that melancholy crisis come to us, as I fear it may, as it has come to all past republics, when the people of this Union shall reject the control of fixed principles, and seek to break away from the *government of laws*, then, indeed, sir, will the hopes of our enemies, and all the fears of our friends, meet in the catastrophe of constitutional liberty, and our "sun shall go down while it is yet day."

**END OF
TITLE**